

P-421/EM-93-1332 ORDER AUTHORIZING CLASS SERVICE OFFERING AND OPENING
INQUIRY INTO TREATMENT OF CONTRIBUTION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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In the Matter of a Proposal by U S WEST
Communications, Inc. to Offer CLASS
Services

ISSUE DATE: April 12, 1994

DOCKET NO. P-421/EM-93-1320

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OFFERING AND OPENING INQUIRY INTO
TREATMENT OF CONTRIBUTION

PROCEDURAL HISTORY

On December 28, 1993 U S WEST Communications, Inc. (U S WEST or the Company) filed a proposal to offer CLASS services in most of its exchanges in the seven-county metro area and in its Gaylord and LeSueur exchanges. The Company filed a description of the services it planned to offer, a proposed customer education plan, and proposed tariff sheets. The filing was based on the Commission's June 17 and December 3, 1993 Orders authorizing CLASS services and setting conditions on their provision.¹

On January 28, 1994 the Department of Public Service (the Department) filed a report and recommendation, focusing chiefly on recordkeeping, reporting, and educational issues. The Department also said the proposed tariffs failed to establish criteria for determining business customers' need for per-line blocking.

On February 1, 1994 the Commission issued a notice to potentially interested persons inviting comments on the filing and the Department's report.

On February 8, 1994 the Minnesota Coalition for Battered Women filed comments expressing concern about and opposition to parts of the Company's proposal, i.e. Anonymous Call Rejection, the proposal to charge for Call Trace and installation of per-line blocking, eligibility requirements for per-line business blocking.

On February 9, 1994 the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG) filed comments on four issues: Call Trace rates, installation fees for residential per-line blocking, procedures for evaluating the effectiveness of Anonymous Call Rejection, and how the Commission should treat the financial contribution expected to result from CLASS services.

¹ In the Matter of a Commission Initiated Investigation into the Provision of Custom Local Area Signaling Services in Minnesota, Docket No. P-999/CI-92-992, ORDER ESTABLISHING CONDITIONS FOR THE PROVISION OF CUSTOM LOCAL AREA SIGNALING SERVICES (June 17, 1993) and ORDER AFTER RECONSIDERATION (December 3, 1993).

On February 9, 1994 the Department filed supplemental comments supporting the RUD-OAG's proposal to offset the contribution resulting from CLASS services with rate reductions in other service categories.

On February 16, 1994 the Company filed a motion to defer all issues relating to the treatment of CLASS contribution until after the Commission had acted on the Company's proposal to offer CLASS services.

The matter came before the Commission on March 29, 1994. The Company, the Department, and the RUD-OAG appeared and stipulated to deferring consideration of the contribution issue. They also reported they had reached agreement on all other issues raised in the Department's and RUD-OAG's comments.

The Minnesota Coalition for Battered Women did not appear.

FINDINGS AND CONCLUSIONS

I. The Company's Proposal

The Company proposed to offer eight CLASS services: Calling Number Identification or Calling Name and Number Identification, depending upon the capabilities of the local switch; Continuous Redial; Last Call Return; Priority Call; Selective Call Forwarding; Selective Call Rejection; and Call Trace. The Company planned to provide Anonymous Call Rejection at no charge, as required under the CLASS Orders, and the business and residential blocking options required under those Orders. The Company's target date for deployment was June 21, 1994.

II. Commission Action

The Commission has examined the Company's proposal as modified and finds that it complies with the terms of the June 17 and December 3 Orders. It will be approved, with filing and reporting requirements to aid regulatory review.

A. Concerns of Battered Women's Coalition

The Company revised its proposal in light of the comments of the Department, the RUD-OAG, and the Minnesota Coalition for Battered Women (the Coalition). The Department and the RUD-OAG stated these revisions satisfied their concerns, with the exception of the income neutrality issue, which they and the Company agreed should be deferred. The Coalition did not state to what extent revisions in the Company proposal satisfied its concerns, which the Commission will therefore examine.

1. Anonymous Call Rejection

The Coalition opposed Anonymous Call Rejection, which companies offering CLASS services are required to offer free of charge under the December 3 Order. The Coalition feared the service could result in battered women or their children disclosing their telephone numbers to abusers.

The Commission continues to view with deep concern any potential for CLASS services to

compromise the security of victims of domestic abuse. The Commission remains committed to monitoring the effect of CLASS services in this area as part of its annual review of the Department's CLASS services report.

At this point, however, the Commission is convinced its December 3 decision to require free Anonymous Call Rejection is sound. The service will enable all customers, including victims of domestic violence, to choose not to receive calls from blocked numbers. Exercising this choice will clearly reduce the number of abusive calls for many customers. It will also allow more informed decisionmaking about how to handle the calls (all unblocked) that still ring through.

It is true that Anonymous Call Rejection will also limit the ability of callers, including callers who have been abused, to place blocked calls. The Coalition believes this could result in frustration and confusion, which could lead abused persons to unblock their numbers in unsafe situations.

To prevent this, the Commission will require the Company to revise the recording which informs callers their call has been deflected by Anonymous Call Rejection. Instead of just giving the code to deactivate Anonymous Call Rejection, the new recording will clearly explain that using the code will disclose the caller's number to the called party. The Commission believes this clear warning will virtually eliminate the risks Anonymous Call Rejection poses to abused persons, without sacrificing any of its benefits.

2. Call Trace Rates

The Company's original filing proposed to price Call Trace at \$2.00 per activation. The Coalition argued the service should be free, on grounds that it is essentially a law enforcement tool and that the fee's practical effect would be to discourage the use of Call Trace by battered persons in financial distress.

The Company responded to these concerns by reducing the per-activation fee to \$1.00, which will be waived in cases in which a law enforcement agency opens a file. The Commission finds the Company's revised proposal reasonable and will approve it.

Allocating costs that benefit both individual customers and the network as a whole is always difficult. In this case, even the originally proposed \$2.00 fee does not cover the costs of providing Call Trace. These costs are real and have to be borne by someone. At the same time, it is anomalous to require crime victims to bear the costs of apprehending perpetrators, and some Call Trace users are clearly and simply victims of crime.

The solution proposed by the Company -- apportioning costs between the individual and network users as a whole, with network users bearing full costs when law enforcement finds probable cause to open a file -- is an equitable, workable approach. The Commission will approve the revised tariff and will monitor its practical effect through the annual reporting required under this and previous CLASS Orders.

3. Fee for Residential Line Blocking

The Company's original proposal was to install residential line blocking free of charge for an initial 90-day period and to charge a one-time cost-based installation fee of \$8.00 thereafter. The Coalition maintained that residential line blocking should be installed free of charge at any point.

The Company's revised tariff eliminates installation fees unless the customer has previously had line blocking, discontinued it, and requests it again. The installation fee has been reduced from \$8.00 to \$6.00. The revised tariff complies with the December 3 Order.

The unlimited free blocking advocated by the Coalition is permissible but not required under the December 3 Order. The Order requires free blocking for an introductory period of 90 days and then allows one-time cost-based installation fees. The Commission continues to consider it reasonable to allow companies to treat early blocking costs as system-wide start-up costs and to treat later blocking costs as the responsibility of the individuals for whom they are incurred. The revised tariff will be approved.

4. Eligibility Requirements for Business Line Blocking

The Coalition objected to the original tariff's limiting business line blocking to law enforcement agencies, shelters for battered persons, and government agencies engaged in undercover operations, and to the tariff's requirement that other entities wanting blocking apply to the Commission for it. As the Department pointed out, the latter requirement conflicted with the December 3 Order, which stated, "Other customers can demonstrate need under criteria set forth in Commission-approved company tariffs. Disputes about the need for blocking will be resolved by the Commission. . . ."

In subsequent discussions the Company has stated its willingness to file tariffs establishing criteria for granting business blocking and has expressed sensitivity to the concerns raised by the Coalition. The Commission assumes the soon-to-be-filed tariffs will reflect the Coalition's concerns and stands ready, if necessary, to resolve any remaining difficulties through the tariff approval or complaint processes.

The Commission notes that the three entities entitled to blocking without a demonstration of need (law enforcement agencies, shelters for battered persons, and government agencies engaged in undercover work) were designated in the December 3 Order. Other business customers will have to demonstrate need, but that process should not be burdensome under properly designed tariffs.

B. Educational and Reporting Requirements

1. Customer Education

As the Commission emphasized in the June 17 and December 3 Orders, public understanding of CLASS services is essential if they are to achieve their potential for giving customers more control over how the telephone affects their lives. Public education programs therefore play a major role when companies introduce CLASS services.

For the most part the educational materials filed by the Company are clear, accurate, and adequate. There are two exceptions. First, the Company needs to develop plans for notifying and working with business customers whose customer premises equipment, alone or in conjunction with their service configuration, makes them unable to activate Anonymous Call Rejection.

Second, as discussed above in the context of the recorded message, the Company needs to revise its educational brochure to clearly state that using the code to bypass Anonymous Call Rejection discloses the caller's number.

Finally, customer education on CLASS services is important enough and complicated enough to make prior review of educational materials helpful. The Commission will therefore require the Company to submit future educational materials for approval by the Commission or its staff.

2. Reporting Requirements

In its June 17 and December 3 Orders the Commission established detailed annual reporting requirements for companies offering CLASS services. The Commission also required an annual report from the Department, which is to include the Department's assessment of public acceptance of CLASS services and its recommendations on how CLASS services should be structured in the future. The Commission continues to believe regulatory monitoring and oversight are necessary to ensure that this new technology is deployed to serve the public interest. The Commission will therefore require the following additional reports from the Company.

First, the Company will be required to give at least 60 days' notice before making any changes to its CLASS service offering or offering any CLASS service in conjunction with any other telephone company or telecommunications carrier.

Second, to help the Commission evaluate the performance of CLASS services and make informed decisions on what shape they should take in the future, the Company will be required to maintain clear records on customer complaints. Copies of these complaints will be furnished to the Department upon request and summaries will be filed with the Company's annual CLASS report.

Finally, the Company will be required to work closely with the Department in providing any information the Department needs to fulfill its annual reporting responsibilities.

C. Inquiry into Treatment of Contribution

The Department and the RUD-OAG filed comments recommending the Commission offset the contribution expected to result from CLASS services with rate reductions in other service categories. The Company opposed the proposal on grounds that it was inconsistent with the Company's Incentive Regulation Plan. Ultimately, all three parties agreed the Commission should defer consideration of the contribution issue until it had acted on the Company's application to offer CLASS services. That action has now been taken.

The contribution issue should be resolved promptly. The Commission will therefore authorize and direct staff to establish comment periods on the issue and to bring the matter to the Commission when the comments have been filed and analyzed.

ORDER

1. U S WEST's proposal to offer CLASS services is approved.
2. Within 10 days of the date of this Order the Company shall file tariffs establishing criteria for granting business blocking and procedures for appealing denials of business blocking to the Commission.

3. The Company shall notify the Commission and the Department at least 60 days in advance of any plan to make any change in its CLASS services or to provide any CLASS service or SS7 technology in conjunction with any other telephone company or telecommunications carrier.
4. The Company shall revise its educational brochure and the recorded message to callers whose calls are deflected by Anonymous Call Rejection to state that using the code to bypass Anonymous Call Rejection will disclose the caller's number.
5. The Company shall develop and file plans for notifying and working with business customers whose customer premises equipment, alone or in conjunction with their service configuration, makes them unable to activate Anonymous Call Rejection.
6. The Company shall keep clear and accurate records of all complaints filed in regard to CLASS services. The Company shall provide copies of such complaints to the Department upon request and shall file summaries of such complaints with its annual CLASS report.
7. The Company shall work closely with the Department in providing any information the Department considers necessary to prepare its annual reports on CLASS services.
8. The Company shall file for review and approval by the Commission or its staff all future educational materials on CLASS services.
9. The Commission authorizes and directs its staff to establish comment periods on the proposal of the Department and the RUD-OAG that contribution from CLASS services should be offset by rate reductions in other service categories.
10. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)